IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.612 OF 2007

Shri.Rajeshkumar Amarprasad Gupta
& Ors. ..Petitioners

Vs.

State of Maharashtra ..Respondents

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Mr. Jaywant Gohil advocate for Petitioners
Smt. A.S.Pai A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : OCTOBER 24, 2007

P.C.

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners are seeking quashing of FIR No.00 of 2007 of Social Service Branch, Mumbai which is subsequently numbered as C.R.No.113 of 2007 of Andheri Police Station. The said case is under Sections 51, 52A, 63, 68A of the Copyright Act, and under Section 420 r.w. 34 of IPC. The prosecution case is that the petitioners were found selling pirated VCDs of movies, DVDs of English movies as well as CDs/DVDs of songs. From the FIR,

it is seen that all the petitioners were caught red handed selling pirated CDs/VCDs/DVDs. A raid was conducted in the presence of panchas and the petitioners were caught red handed selling CDs/VCDs/DVDs. The name of the manufacturer, year of manufacturing, date of manufacturing, monogram etc. were either not found on the CDs/VCDs/DVDs or they were found to be false.

3. The learned advocate for the petitioners has contended that when the Special Act i.e. Copyright Act, 1957 has been enacted to cover offence of this nature then in such case, Section 420 r.w. 34 of IPC cannot be applied by the Investigating Agency. In support of his contention, he has placed reliance on the decision of the learned Single Judge of the Karnataka High Court in **Syed Kaleem Vs. Mysore Lakshmi Beedi Works and another reported in 1993 Cri.L.J. 232.** In the said case the investigation was over and the case was at the stage of framing of charge. However, in the present case, it is seen that the investigation is still going on. At this stage, it is too premature to say the exact nature of the offence. Thus, the

decision in the case of **Syed Kaleem** would not be of any help to the Petitioners. Thus, I do not think that this is a fit case to quash the FIR at this stage. However, the liberty is granted to the petitioners to prefer appropriate proceedings in case charge sheet is filed.

4. Petition is rejected and stands disposed of.

[SMT.V.K.TAHILRAMANI, J.]